



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-552-801]

Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of the New Shipper Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce

SUMMARY: On December 13, 2011, the Department of Commerce (“Department”) published in the Federal Register the preliminary results of the new shipper review of the antidumping duty order on certain frozen fish fillets (“frozen fish fillets”) from the Socialist Republic of Vietnam (“Vietnam”).¹ We gave interested parties an opportunity to comment on the Preliminary Results and, based upon our analysis of the comments and information received, we made changes to the margin calculation for the final results of this new shipper review. The final weighted-average margins are listed below in the “Final Results of Review” section of this notice. The period of review (“POR”) is August 1, 2010, through January 31, 2011.

EFFECTIVE DATE: [Insert date of publication in the Federal Register].

FOR FURTHER INFORMATION CONTACT: Emeka Chukwudebe, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0219.

SUPPLEMENTARY INFORMATION:

Background

As noted above, on December 13, 2011, the Department published the Preliminary Results of this new shipper review. We invited interested parties to comment on the Preliminary

¹ See Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Preliminary Results of the New Shipper Review, 76 FR 77485 (December 13, 2011) (“Preliminary Results”).

Results. We extended the deadlines for submission of surrogate value comments and case briefs on multiple occasions.² On January 10, 2012, the Department published a notice fully extending the time limit for completion of the final results of this new shipper review.³ Between March 16, 2012, and March 21, 2012, we received case and rebuttal briefs from Petitioners⁴ and the respondent.⁵ As a result of our analysis, we have made changes to the Preliminary Results.

Scope of the Order

The product covered by the order is frozen fish fillets, including regular, shank, and strip fillets and portions thereof, whether or not breaded or marinated, of the species *Pangasius Bocourti*, *Pangasius Hypophthalmus* (also known as *Pangasius Pangasius*), and *Pangasius Micronemus*. Frozen fish fillets are lengthwise cuts of whole fish. The fillet products covered by the scope include boneless fillets with the belly flap intact (“regular” fillets), boneless fillets with the belly flap removed (“shank” fillets), boneless shank fillets cut into strips (“fillet strips/finger”), which include fillets cut into strips, chunks, blocks, skewers, or any other shape. Specifically excluded from the scope are frozen whole fish (whether or not dressed), frozen steaks, and frozen belly-flap nuggets. Frozen whole dressed fish are deheaded, skinned, and

² See Memorandum for All Interested Parties, from Alexis Polovina, Case Analyst, Import Administration, Re: Antidumping Duty New Shipper Review of Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Extension of Time to Submit Surrogate Value Comments, dated December 30, 2011. See also Memorandum for All Interested Parties, from Emeka Chukwudebe, Case Analyst, Import Administration, Re: Antidumping Duty New Shipper Review of Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Extension of Surrogate Value Comments & Case Briefs Deadlines, dated January 5, 2012. See also Memorandum for All Interested Parties, from Emeka Chukwudebe, Case Analyst, Import Administration, Re: Antidumping Duty New Shipper Review of Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Second Extension of Case and Rebuttal Briefs, dated, February 29, 2012. See also Memorandum for All Interested Parties, from Emeka Chukwudebe, Case Analyst, Import Administration, Re: Antidumping Duty New Shipper Review of Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Revised Extension of Case and Rebuttal Briefs, dated, March 8, 2012.

³ See Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Extension of Time for Final Results of the New Shipper Review, 77 FR 1470 (January 10, 2012).

⁴ The Catfish Farmers of America and individual U.S. Catfish Processors: America's Catch, Consolidated Catfish Companies, LLC dba Country Select Catfish, Delta Pride Catfish, Inc., Harvest Select Catfish, Inc., Heartland Catfish Company, Pride of the Pond, Simmons Farm Raised Catfish, Inc., and Southern Pride Catfish Company LLC (collectively, “Petitioners”).

⁵ Thuan An Production Trading & Services Co., Ltd. (“TAFISHCO”).

eviscerated. Steaks are bone-in, cross-section cuts of dressed fish. Nuggets are the belly-flaps. The subject merchandise will be hereinafter referred to as frozen “basa” and “tra” fillets, which are the Vietnamese common names for these species of fish. These products are classifiable under tariff article codes 0304.29.6033, 0304.62.0020, 0305.59.0000, 0305.59.4000, 1604.19.2000, 1604.19.2100, 1604.19.3000, 1604.19.3100, 1604.19.4000, 1604.19.4100, 1604.19.5000, 1604.19.5100, 1604.19.6100, 1604.19.8100 (Frozen Fish Fillets of the species *Pangasius* including basa and tra) of the Harmonized Tariff Schedule of the United States (“HTSUS”).⁶ The order covers all frozen fish fillets meeting the above specification, regardless of tariff classification. Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of the order is dispositive.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties are addressed in the “Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Issues and Decision Memorandum for the Final Results of the New Shipper Review,” dated concurrently with this notice (“I&D Memo”), and which is hereby adopted by this notice. A list of the issues which parties raised is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this new shipper review and the corresponding recommendation in this public memorandum which is on file electronically via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Services System (“IA ACCESS”). Access to IA ACCESS is available in the Central Records Unit (“CRU”) of the main Commerce Building, Room 7046. In addition, a

⁶ Until July 1, 2004, these products were classifiable under tariff article codes 0304.20.60.30 (Frozen Catfish Fillets), 0304.20.60.96 (Frozen Fish Fillets, NESOI), 0304.20.60.43 (Frozen Freshwater Fish Fillets) and 0304.20.60.57 (Frozen Sole Fillets) of the HTSUS. Until February 1, 2007, these products were classifiable under tariff article code 0304.20.60.33 (Frozen Fish Fillets of the species *Pangasius* including basa and tra) of the HTSUS. On March 2, 2011, the Department added two HTSUS numbers at the request of U.S. Customs and Border Protection (“CBP”): 1604.19.2000 and 1604.19.3000. On January 30, 2012, the Department added eight HTSUS numbers at the request of U.S. CBP: 0304.62.0020, 0305.59.0000, 1604.19.2100, 1604.19.3100, 1604.19.4100, 1604.19.5100, 1604.19.6100, 1604.19.8100.

complete version of the I&D Memo is accessible on the Web at <http://trade.gov/frn>. The paper copy and electronic versions of the I&D Memo are identical in content.

Changes Since the Preliminary Results

Based on a review of the record and comments received from interested parties regarding our Preliminary Results, we have made certain revisions to the margin calculation for TAFISHCO. For the reasons explained in the I&D Memo at Comment I, we have changed our primary surrogate country selection from Indonesia to Bangladesh. For all other changes to the calculation of TAFISHCO, see the I&D Memo and company-specific analysis memorandum. For changes to the surrogate values, see the I&D Memo and “Memorandum to the File, through Matthew Renkey, Acting Program Manager, AC/CVD Operations, Office 9, from Emeka Chukwudebe, Case Analyst, AD/CVD Operations, Office 9, Antidumping New Shipper Review of Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Surrogate Values for the Final Results,” dated May 3, 2012.

Final Results of Review

The dumping margin for the POR is as follows:

Manufacturer/Exporter	Weighted-Average Margin (Dollars Per Kilogram)
Thuan An Production Trading & Services Co., Ltd.	0.00

Assessment

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of review. Pursuant to 19 CFR 351.212(b)(1), we will calculate importer-specific (or customer) ad valorem duty

assessment rates based on the ratio of the total amount of the dumping margins calculated for the examined sales to the total entered value of those same sales. In accordance with 19 CFR 351.106(c)(2), we will instruct CBP to liquidate, without regard to antidumping duties, all entries of subject merchandise during the POR for which the importer-specific assessment rate is zero or de minimis.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this new shipper review for all shipments of the subject merchandise from Vietnam entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Tariff Act of 1930, as amended (“Act”): (1) For subject merchandise produced and exported by TAFISHCO, the cash deposit rate will be the rate established in the final results of this new shipper review. If the cash deposit rate calculated in the final results is zero or de minimis, no cash deposit will be required for the specific producer-exporter combination listed above; (2) for subject merchandise exported by TAFISHCO, but not manufactured by TAFISHCO, the cash deposit rate will continue to be the Vietnam-wide rate (i.e., \$2.11/Kilogram); and (3) for subject merchandise manufactured by TAFISHCO, but exported by any other party, the cash deposit rate will be the Vietnam-wide rate (i.e., \$2.11/Kilogram). The cash deposit requirement, when imposed, shall remain in effect until further notice.

Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement

could result in the Department's presumption that reimbursement of antidumping duties has occurred and the subsequent assessment of doubled antidumping duties.

Administrative Protective Order

In accordance with 19 CFR 351.305(a)(3), this notice also serves as a reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the return or destruction of proprietary information disclosed under the APO, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation subject to sanction.

We are issuing and publishing this new shipper review and notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Ronald K. Lorentzen
Acting Assistant Secretary
for Import Administration

May 3, 2012
Date

Appendix I – Issues & Decision Memorandum

- COMMENT I: SELECTION OF SURROGATE COUNTRY
- A. Economic Comparability
 - B. Significant Producer of the Comparable Merchandise
 - C. Data Considerations
- COMMENT II: SURROGATE VALUES
- A. Financial Ratios
 - B. Fish Waste
 - C. Fingerlings, Fish Feed, Nutrients, Lime
 - D. Salt
 - E. STPP, CO Gas, PE Bags, Cartons, Tape, Label, Plastic Sheet, Banding, Diesel
 - F. Labor
 - G. Brokerage & Handling
- COMMENT III: CORRECTION OF PRELIMINARY MARGIN CALCULATION

[FR Doc. 2012-11218 Filed 05/09/2012 at 8:45 am; Publication Date: 05/10/2012]